

1 Department of Real Estate  
2 320 West Fourth Street, Suite 350  
3 Los Angeles, California 90013-1105

4 (213) 576-6982  
5 (213) 576-6913 - Direct

FILED  
JUL 25 2001  
DEPARTMENT OF REAL ESTATE

By CS

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 AMERIMAX REALTY FINANCIAL, doing ) NO. H-28831 LA  
13 business as Amerimax Financial ) L-2000100536  
14 Services and Amerimax Real Estate )  
15 & Finance and SANDRA K. RAUSCH, ) STIPULATION AND AGREEMENT  
16 individually and as designated )  
17 officer of Amerimax Realty Financial, )  
18 Respondent(s). )

17 It is hereby stipulated by and between AMERIMAX  
18 REALTY FINANCIAL, doing business as Amerimax Financial  
19 Services and Amerimax Real Estate & Finance and SANDRA K.  
20 RAUSCH, individually and as designated officer of Amerimax  
21 Realty Financial (sometimes referred to herein as "Respondents"),  
22 acting by and through Steven Zipperman, Esq., Attorney of  
23 Record, and the Complainant, acting by and through James R.  
24 Peel, Counsel for the Department of Real Estate, as follows  
25 for the purpose of settling and disposing of the Accusation  
26 filed on October 24, 2000, in this matter:

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1  
2 1. All issues which were to be contested and all  
3 evidence which was to be presented by Complainant and  
4 Respondents at a formal hearing on the Accusation, which  
5 hearing was to be held in accordance with the provisions of the  
6 Administrative Procedure Act (APA), shall instead and in place  
7 thereof be submitted solely on the basis of the provisions of  
8 this Stipulation and Agreement.

9 2. Respondents have received, read and understand,  
10 the Statement to Respondent, the Discovery Provisions of the  
11 APA and the Accusation, filed by the Department of Real Estate  
12 in this proceeding.

13 3. On October 25, 2000, Respondents filed a Notice  
14 of Defense pursuant to Section 11505 of the Government Code for  
15 the purpose of requesting a hearing on the allegations in the  
16 Accusation. Respondents hereby freely and voluntarily withdraw  
17 said Notice of Defense. Respondents acknowledge that they  
18 understand that by withdrawing said Notice of Defense, they  
19 will thereby waive their right to require the Commissioner to  
20 prove the allegations in the Accusation at a contested hearing  
21 held in accordance with the provisions of the APA and that they  
22 will waive other rights afforded to them in connection with the  
23 hearing, such as the right to present evidence in defense of  
24 the allegations in the Accusation and the right to cross-examine  
25 witnesses.

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1 4. Respondents, pursuant to the limitations set forth  
2 below, although not admitting or denying the truth of the  
3 allegations, will not contest the factual allegations contained  
4 in the Accusation filed in this proceeding and the Real Estate  
5 Commissioner shall not be required to provide further evidence  
6 of such allegations.

7 5. It is understood by the parties that the Real  
8 Estate Commissioner may adopt the Stipulation and Agreement  
9 as her decision in this matter thereby imposing the penalty  
10 and sanctions on Respondents' real estate licenses and license  
11 rights as set forth in the below "Order". In the event that  
12 the Commissioner in her discretion does not adopt the  
13 Stipulation and Agreement, it shall be void and of no effect,  
14 and Respondents shall retain the right to a hearing and  
15 proceeding on the Accusation under all the provisions of the  
16 APA and shall not be bound by any admission or waiver made  
17 herein.

18 6. The Order or any subsequent Order of the Real  
19 Estate Commissioner made pursuant to this Stipulation and  
20 Agreement shall not constitute an estoppel, merger or bar  
21 to any further administrative or civil proceedings by the  
22 Department of Real Estate with respect to any matters which  
23 were not specifically alleged to be causes for accusation  
24 in this proceeding.

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1 7. This Stipulation and Agreement is entered into by  
2 each party with the express understanding and agreement that it  
3 is to be used for the purposes of settling these proceedings  
4 only and that this Stipulation and Agreement shall not be  
5 deemed, used, or accepted as an acknowledgment or stipulation  
6 in any other civil or administrative proceeding to which this  
7 Department is not a party.

8 DETERMINATION OF ISSUES

9 By reason of the foregoing stipulations and waivers  
10 and solely for the purpose of settlement of the pending  
11 Accusation without a hearing, it is stipulated and agreed  
12 that the following determination of issues shall be made:  
13

14 I

15 The conduct, acts and/or omissions of Respondents,  
16 AMERIMAX REALTY FINANCIAL and SANDRA K. RAUSCH, as alleged  
17 in the Accusation, constitute cause to suspend or revoke the  
18 real estate licenses and license rights of Respondents, under  
19 the provisions of Business and Professions Code ("Code")  
20 Sections 10165, 10176(g), 10177(d), 10177(g) and 10177(f) for  
21 violations of Code Sections 10160, 10161.8(a), 10240 and 10241,  
22 Sections 2742, 2752, 2753, and 2840 of Title 10, Chapter 6,  
23 California Code of Regulations.

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II

The conduct, acts and/or omissions of Respondent SANDRA K. RAUSCH as set forth in the Accusation, constitute cause to suspend or revoke the real estate licenses and license rights of Respondent SANDRA K. RAUSCH under the provisions of Code Sections 10177(d) and 10177(h) for violation of Code Section 10159.2.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and license rights of Respondents, AMERIMAX REALTY FINANCIAL, doing business as Amerimax Financial Services and Amerimax Real Estate & Finance and SANDRA K. RAUSCH, individually and as designated officer of Amerimax Realty Financial, under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision; provided, however, that thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

1. Respondents shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one year after the effective date of this Decision. Should such a determination be made, the Commissioner may, in her discretion, vacate and set aside the stay order and

1 reimpose all or a portion of the stayed suspension. Should no  
2 such determination be made, the stay imposed herein shall become  
3 permanent.

4 3. Provided further, that the remaining thirty (30)  
5 days of said sixty (60) day suspension shall be stayed on  
6 condition that:

7 a. Respondent each pays a monetary penalty pursuant  
8 to Section 10175.2 of the Business and Professions Code in the  
9 amount of \$1,000 (\$2,000 for both Respondents).

10 b. Said payment shall be in the form of a cashier's  
11 check or certified check made payable to the Recovery Account  
12 of the Real Estate Fund. Said check must be received by the  
13 Department prior to the effective date of the Decision in this  
14 matter.

15 c. That no final subsequent determination be made,  
16 after hearing or upon stipulation, that cause for disciplinary  
17 action occurred within two (2) years after the effective date  
18 of this Decision. Should such a determination be made, the  
19 Commissioner may, in her discretion, vacate and set aside  
20 the stay order and reimpose all or a portion of the stayed  
21 suspension. Should no such determination be made, the stay  
22 imposed herein shall become permanent.

23  
24 DATED: May 23, 2001

James R. Peel  
JAMES R. PEEL  
Counsel for Complainant

\* \* \*

We have read the Stipulation and Agreement, have discussed it with our counsel, and its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of their signatures as they appear on the Stipulation and Agreement, that

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1 receipt of the faxed copy by the Department shall be as binding  
2 on Respondents as if the Department had received the original  
3 signed Stipulation and Agreement.

4  
5 DATED: 1/12/01

Sandra K. Rausch

6 AMERIMAX REALTY FINANCIAL,  
7 doing business as Amerimax  
8 Financial Services and  
9 Amerimax Real Estate & Finance  
10 Respondent

11 DATED: 1/12/01

Sandra K. Rausch

12 SANDRA K. RAUSCH, individually  
13 and as designated officer of  
14 Amerimax Realty Financial  
15 Respondent

16 DATED: 1/12/01

Steven J. Zipper

17 STEVEN ZIPPERMAN, ESQ.  
18 Counsel for Respondents

19 \* \* \*

20 The foregoing Stipulation and Agreement is hereby  
21 adopted as my Decision and shall become effective at 12 o'clock  
22 noon on August 14, 2001.

23 IT IS SO ORDERED

July 9, 2001

24 PAULA REDDISH ZINNEMANN  
25 Real Estate Commissioner

Paula Reddish Zinnemann



SAC

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of ) Case No. H-28831 LA  
)  
AMERIMAX REALTY FINANCIAL, dba ) OAH No. L-2000100536  
Amerimax Financial Services and )  
Amerimax Real Estate & Finance and )  
SANDRA K. RAUSCH, individually )  
and as designated officer of )  
Amerimax Realty Financial, )  
\_\_\_\_\_  
Respondent(s)

FILED  
MAR 21 2001  
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By CS

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on THURSDAY, MAY 24, 2001, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: March 21, 2001

By

James R. Peel  
JAMES R. PEEL, Counsel

cc: Amerimax Realty Financial  
Sandra K. Rausch  
Steven Zipperman, Esq.  
Sacto.  
OAH

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of )  
AMERIMAX REALTY FINANCIAL, dba )  
Amerimax Financial Services and )  
Amerimax Real Estate & Finance and )  
SANDRA K. RAUSCH, individually )  
and as designated officer of )  
Amerimax Realty Financial, )

Case No. H-28831 LA

OAH No. L-2000100536

Respondent(s)

FILED  
NOV - 7 2000  
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By CJ

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY and THURSDAY, JANUARY 24 and 25, 2001, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.


You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: November 7, 2000

By

  
DARLENE AVERETTA, Counsel

cc: Amerimax Realty Financial  
Sandra K. Rausch  
Steven Zipperman, Esq.  
Sacto.  
OAH

1 DARLENE AVERETTA, Counsel  
(SBN 159969)  
2 Department of Real Estate  
320 West 4th Street, Suite 350  
3 Los Angeles, California 90013-1105  
4 Telephone: (213) 576-6982  
(Direct) (213) 576-6904

FILED  
OCT 24 2000  
DEPARTMENT OF REAL ESTATE

By CS

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

11 In the Matter of the Accusation of ) NO. H-28831 LA  
12 )  
13 AMERIMAX REALTY FINANCIAL, doing )  
14 business as Amerimax Financial ) A C C U S A T I O N  
15 Services and Amerimax Real Estate )  
16 & Finance and SANDRA K. RAUSCH, )  
17 individually and as designated )  
18 officer of Amerimax Realty )  
19 Financial, )  
20 Respondents. )

21 The Complainant, Thomas McCrady, a Deputy Real Estate  
22 Commissioner of the State of California, for cause of Accusation,  
23 against AMERIMAX REALTY FINANCIAL, doing business as Amerimax  
24 Financial Services and Amerimax Real Estate & Finance and SANDRA  
25 K. RAUSCH, individually and as designated officer of Amerimax  
26 Realty Financial, is informed and alleges as follows:

1.

27 The Complainant, Thomas McCrady, a Deputy Real Estate  
Commissioner of the State of California, makes this Accusation  
in his official capacity.



2.

AMERIMAX REALTY FINANCIAL, doing business as Amerimax Financial Services and Amerimax Real Estate & Finance ("AMERIMAX") and SANDRA K. RAUSCH, individually and as designated officer of Amerimax Realty Financial ("RAUSCH") (sometimes collectively referred to herein as "Respondents"), are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code").

3.

At all times material herein, AMERIMAX was and currently is licensed by the Department of Real Estate of the State of California ("Department") as a corporate real estate broker by and through RAUSCH as the responsible designated officer and broker.

4.

At all times material herein, RAUSCH was licensed by the Department, individually as a real estate broker and as the designated broker-officer of AMERIMAX. RAUSCH was originally licensed by the Department as a real estate broker effective April 13, 1999. RAUSCH was originally licensed by the Department as a designated broker-officer of AMERIMAX effective April 19, 1999. As the designated broker-officer, RAUSCH is and was responsible pursuant to the provisions of Code Section 10159.2, for the supervision and control of the activities requiring a real estate license conducted on behalf of AMERIMAX by its officers and employees as necessary to secure full



1 compliance with the provisions of the Real Estate Law.

2 5.

3 Prior Discipline

4 On October 23, 1997, Order to Desist and Refrain No.  
5 H-27326 LA was filed by the Department. RAUSCH was ordered to  
6 desist and refrain from engaging in any activity within the  
7 meaning of Code Section 10131, without first obtaining a license  
8 from the Department.

9 6.

10 All further references to "AMERIMAX" and "RAUSCH",  
11 unless otherwise specified, include the parties identified in  
12 Paragraphs 2 through 5, above, and also include the officers,  
13 directors, managers, employees, agents and real estate licensees  
14 employed by or associated with said parties, who at all times  
15 herein mentioned were engaged in the furtherance of the business  
16 or operations of said parties and who were acting within the  
17 course and scope of their authority, agency or employment.

18 FIRST CAUSE OF ACCUSATION

19 (Audit)

20 7.

21 On or about June 23, 2000, the Department completed  
22 an examination of Respondents' books and records pertaining to  
23 the real estate activities described herein below. Said  
24 examination covered a period from approximately April 13, 1999  
25 through April 30, 2000, and revealed violations of the Code and  
26 Title 10, Chapter 6, California Code of Regulations  
27 ("Regulations"), as set forth below.

8.

At all times material herein, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California, for another or others, and for or in expectation of compensation within the meaning of Code Section 10131(d). Said activities included the operation and conduct of a mortgage loan brokerage business with the public wherein Respondents solicited borrowers or lenders for, or negotiated loans, or collected payments or performed services, for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

9.

In the course of activities described in Paragraph 8, and during the examination period described in Paragraph 7, Respondents AMERIMAX and RAUSCH acted in violation of the Code and Regulations as follows:

(a) Respondents failed give borrowers a statement containing all the information required by Code Section 10241, in that Respondents failed to disclose that additional compensation was paid to AMERIMAX from the lender, in violation of Code Section 10240 and Regulation 2840.

(b) Respondents failed to notify borrowers that they were charged for credit report fees in excess of the amount billed by the credit reporting company, in violation of Code Section 10176(g).

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1 (c) Respondents failed to notify the Real Estate  
2 Commissioner, within five (5) days, of Respondents' employment  
3 of licensed real estate salesperson Mike Rausch, in violation  
4 of Code Section 10161.8(a) and Regulation 2752.

5 (d) Respondents failed to retain the license  
6 certificate of licensee Edward Hafer, in violation of Code  
7 Section 10160 and Regulation 2753.

8 10.

9 The conduct, acts and/or omissions of Respondents  
10 AMERIMAX and RAUSCH, as described in Paragraph 9, above,  
11 violated the Code and the Regulations as set forth below:

12	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
13	9(a)	Code Section 10240
14		and Regulation 2840
15	9(b)	Code Section 10176(g).
16	9(c)	Code Section 10161.8(a)
17		and Regulation 2752
18	9(d)	Code Section 10160 and
		Regulation 2753

19 Each of the foregoing violations constitute cause for  
20 the suspension or revocation of all real estate licenses and  
21 license rights of Respondents AMERIMAX and RAUSCH, under the  
22 provisions of Code Sections 10165, 10177(d), 10176(g) and/or  
23 10177(g).

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SECOND CAUSE OF ACCUSATION

(Violation of Code Section 10159.2)

11.

Complainant incorporates herein by reference the Preamble and the allegations of Paragraphs 1 through 10, inclusive, herein above.

12.

On or about November 1, 1999, pursuant to the provisions of Section 23302 of the Revenue and Taxation Code of the State of California, the corporate powers, rights and privileges of Respondent AMERIMAX were suspended.

13.

Said suspension would have been grounds for the denial of a real estate license under Regulation 2742, and constitutes cause for the suspension or revocation of the real estate license and license rights of Respondent AMERIMAX, under the provisions of Code Section 10177(f).

THIRD CAUSE OF ACCUSATION

(Violation of Code Section 10159.2)

14.

Complainant incorporates herein by reference the Preamble and the allegations of Paragraphs 1 through 13, inclusive, herein above.

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1  
2 The conduct, acts and/or omissions of Respondent  
3 RAUSCH in causing, allowing, or permitting Respondent AMERIMAX  
4 to violate the Real Estate Law, as described herein above,  
5 constitute failure on the part of Respondent RAUSCH, as the  
6 officer designated by a corporate broker licensee, to exercise  
7 the reasonable supervision and control over the licensed  
8 activities of Respondent AMERIMAX, as required by Code Section  
9 10159.2. Said conduct is cause to suspend or revoke the real  
10 estate licenses and license rights of Respondent RAUSCH,  
11 pursuant to the provisions of Code Sections 10177(d), 10177(g)  
12 and/or 10177(h).

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1 WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against all licenses and license rights of Respondents  
5 AMERIMAX REALTY FINANCIAL, doing business as Amerimax Financial  
6 Services and Amerimax Real Estate & Finance and SANDRA K.  
7 RAUSCH, individually and as designated officer of Amerimax  
8 Realty Financial, under the Real Estate Law (Part 1 of Division  
9 4 of the Business and Professions Code), and for such other and  
10 further relief as may be proper under other applicable  
11 provisions of law.

12 Dated at Los Angeles, California  
13 this 24<sup>th</sup> day of October, 2000.

THOMAS McCRADY  
Deputy Real Estate Commissioner

24 cc: Amerimax Realty Financial  
25 Sandra K. Rausch  
26 Thomas McCrady  
27 LA Audits/Goff  
SACTO  
LK